

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. B-04/08-184  
 )  
 Appeal of )

# INTRODUCTION

The petitioner appeals the decision by the Department for Children and Families, Economic Services Division, increasing the amount of her patient share under the Long-Term Care Medicaid Program. The issue is whether the Department correctly determined the amount of petitioner's patient share after she moved into a nursing home from a community placement.

## FINDINGS OF FACT

1. The petitioner is a ninety-year-old woman who receives Social Security Administration retirement and two pensions in the amount of \$1,809.87 per month.
2. Prior to March 24, 2008, petitioner was in a community based placement. Her patient share was \$667.99 per month.
3. The Department received a change form dated March 24, 2008 from petitioner's Choices for Care case manager

notifying the Department that petitioner had been admitted to a nursing home as a permanent admission.

4. The regulations governing Long-Term Care Medicaid apply different deductions when determining patient share for a recipient in the community versus a recipient in a nursing facility.

5. On or about March 31, 2008, the Department sent petitioner a notice informing her that her patient share would be \$1,665.81 per month effective May 1, 2008. In determining the patient share, the Department deducted petitioner's Medicare premium of \$96.40 per month and a personal needs allowance of \$47.66 per month from her monthly income of \$1,809.87.

6. Petitioner's son has power of attorney and filed an appeal of the increased patient share. Petitioner's son is concerned that the petitioner does not have sufficient funds available after paying her patient share to maintain her homestead.

ORDER

The Department's decision is affirmed.

REASONS

The Department's policies determining the amount of patient share for Long-Term Care Medicaid recipients are found at M430-432. M430 states, in part:

Once the department determines individuals are eligible for long-term care, including waiver and hospice services, it computes how much of their income must be paid to the long-term care provider each month for the cost of care (patient care). . . . The Department determines the patient share at initial eligibility, eligibility redeterminations, and when changes in circumstances occur.

An individual's patient share is determined by computing the maximum patient share and deducting allowable expenses. Sections M431-M431.2 describe how the department determines the maximum patient share. Sections M432-M432.32 describe allowable deductions from the patient share.

The deductions in M432 include:

. . .the department deducts the following items from the individual's patient share specified in the subsections below in the following order:

(a) a personal needs allowance or community maintenance allowance (M432.1);

(b) home upkeep expenses, if applicable (M432.2)<sup>1</sup>;

(c) allocations to community spouse or maintenance needs of family members living in the community, if applicable (M432.3); and

---

<sup>1</sup> Home upkeep expenses may be paid for up to six months when an individual is institutionalized. Petitioner has not submitted the documentation to allow for this deduction. Petitioner has the option of pursuing this deduction or other strategies with the Department to decrease the patient share.

(d) reasonable medical expenses incurred, if applicable (M420-M422).

When petitioner was in the community, the Department applied the community maintenance allowance of \$950 per month which significantly reduced her patient share. Once petitioner entered a nursing home, the community maintenance allowance was no longer applicable in her case.

The Department applied the deductions allowed under the above regulations and correctly determined the amount of petitioner's patient share.

The Board can sympathize with petitioner's position that the amount of deductions is inadequate or that petitioner has been placed in an awkward position regarding how to treat her home, but we are bound to comply with the applicable regulations. In as much as the decision of the Department is in accord with its regulations, the Department's decision is affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

# # #